

HOUSE BILL 3431

By McDonald

AN ACT to amend Tennessee Code Annotated, Title 68,
Chapter 121, relative to elevators and related
devices.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 68-121-101, is amended by deleting subdivision (1) and by adding the following as new subdivisions:

() "Administrators" means the commissioner of labor and workforce development or the officers designated by the elevator and amusement device safety board;

() "ASCE 21" means American Society of Civil Engineers Automated People Mover Standards;

() "ASME A17.1/CSA B44" means the Safety Code for Elevators and Escalators, an American National Standard;

() "ASME A17.3" means the Safety Code for Existing Elevators and Escalators, an American National Standard;

() "ASME A17.7/CSA B44.7" means the Performance-Based Safety Code for Elevators and Escalators, an American National Standard;

() "ASME A18.1" means the Safety Standard for Platform Lifts and Stairway Chairlifts, an American National Standard;

() "Automated people mover" means an installation as defined as an "automated people mover" in ASCE 21;

() "Certificate of operation" means a document issued by the board that indicates that the conveyance has had the required safety inspection and tests and fees have been paid as set forth in this chapter;

() "Certificate of operation, temporary" means a document issued by the board that permits the temporary use of a non-compliant conveyance by the general public for a limited time, thirty days while minor repairs are being completed;

() "Conveyance" means any elevator, dumbwaiter, escalator, moving sidewalk, platform lifts, stairway chairlifts and automated people movers;

() "Dormant elevator, dumbwaiter or escalator" means an installation placed out of service as specified in ASME A17.1/CSA B44 and ASME A18.1;

() "Elevator" means an installation as defined as an "elevator" in ASME A17.1/CSA B44;

() "Elevator contractor" means any sole proprietor, firm, or corporation who possesses an elevator contractor's license in accordance with subsection (g) and who is engaged in the business of erecting, constructing, installing, altering, servicing, repairing or maintaining elevators or related conveyance covered by this chapter;

() "Elevator helper/apprentice" means works under the general direction of licensed elevator mechanic. A license is not required;

() "Elevator mechanic" means any person who possesses an elevator mechanic license in accordance with subsection (g) and who is engaged in erecting, constructing, installing, altering, servicing, repairing or maintaining elevators or related conveyance covered by this chapter;

() "Escalator" means an installation as defined as an "escalator" in ASME A17.1/CSA B44;

() "Existing installation" means an installation as defined as an "installation, existing" in ASME A17.1/CSA B44;

() "License" means a written license, duly issued by the board, authorizing a person, sole proprietor, firm, or corporation to carry on the business of erecting, constructing, installing, altering, servicing, repairing or maintaining or performing inspections of elevators or related conveyance covered by this chapter;

() "License, elevator contractors" means a license which is issued to an elevator contractor who has been authorized by the board to possess this type of license. It shall entitle the holder thereof to engage in the business of erecting, constructing, installing, altering, servicing, testing, repairing, or maintaining elevators or related conveyance covered by this chapter;

() "License, limited elevator contractors" means a license which is issued by the board authorizing a sole proprietor, firm, or corporation who employs individuals to carry on a business of erecting, constructing, installing, altering, servicing, repairing, or maintaining platform lifts, and stairway chairlifts within any building or structure, including but not limited to private residences;

() "License, elevator mechanic" means a license that is issued to a person who has proven such person's qualifications and ability and has been authorized by the board to work on conveyance equipment. The license shall entitle the licensee to install, construct, alter, service, repair, test, maintain and perform electrical work on elevators or related conveyance covered by this chapter;

() "Licensee" means the elevator mechanic, elevator contractor or elevator inspector;

() "Material alteration" means an "alteration" as defined in the referenced standards;

() "Moving walk (sidewalk)" means an installation as defined as a "moving walk" in ASME A17.1/CSA B44;

() "Private residence" means a separate dwelling or a separate apartment in a multiple dwelling, which is occupied by members of a single-family unit;

() "Repair" means a "repair" as defined in the referenced standards. This does not require a permit;

() "Temporarily dormant elevator, dumbwaiter or escalator" means an installation whose power supply has been disconnected by removing fuses and placing a padlock on the mainline disconnect switch in the "OFF" position. The car is parked and the hoistway doors are in the closed and latched position. A wire seal shall be installed on the mainline disconnect switch by a licensed elevator inspector. This installation shall not be used again until it has been put in safe running order and is in condition for use. Annual inspections shall continue for the duration of the temporarily dormant status by a licensed elevator inspector. "Temporarily dormant" status shall be renewable on an annual basis and shall not exceed a five-year period. The inspector shall file a report with chief elevator inspector describing the current conditions. The wire seal and padlock shall not be removed for any purpose without permission from the elevator inspector;

SECTION 2. Tennessee Code Annotated, Title 68, Chapter 121, is amended by adding the following as a new section:

68-121-113.

(a) This chapter covers the design, construction, operation, inspection, testing, maintenance, alteration, and repair of the following equipment, its associated parts, and its hoistways, except as modified by subsection (c):

(1) Hoisting and lowering mechanisms equipped with a car or platform, which move between two (2) or more landings. This equipment includes, but is not limited to, the following (also see ASME A17.1/CSA B44, ASME A17.7/CSA B44.7, ASME A17.3 and ASME A18.1):

(A) Elevators; and

(B) Platform lifts and stairway chair lifts; and

(2) Power driven stairways and walkways for carrying persons between landings. This equipment includes, but is not limited to, the following (also see ASME A17.1/CSA B44, ASME A17.7/CSA B44.7, and ASME A17.3):

(A) Escalators; and

(B) Moving walks; and

(3) Hoisting and lowering mechanisms equipped with a car that serves two (2) or more landings and is restricted to the carrying of material by its limited size or limited access to the car. This equipment includes, but is not limited to, the following (also see ASME A17.1/CSA B44, ASME A17.7/CSA B44.7, and ASME A17.3):

(A) Dumbwaiters; and

(B) Material lifts and dumbwaiters with automatic transfer devices.

(b) This chapter covers the design, construction, operation, inspection, maintenance, alteration and repair of automatic guided transit vehicles on guideways with an exclusive right-of-way. This equipment includes, but is not limited to, automated people mover (also see ASCE 21).

(c) Equipment not covered by this chapter includes, but is not limited to, the following:

(1) Material hoists within the scope of ANSI A10.5;

- (2) Manlifts within the scope of ASME A90.1;
- (3) Mobile scaffolds, towers and platforms within the scope of ANSI A92;
- (4) Powered platforms and equipment for exterior and interior maintenance within the scope of ANSI 120.1;
- (5) Conveyors and related equipment within the scope of ASME B20.1;
- (6) Cranes, derricks, hoists, hooks, jacks and slings within the scope of ASME B30;
- (7) Industrial trucks within the scope of ASME B56;
- (8) Portable equipment, except for portable escalators which are covered by ASME A17.1/CSA B44 and ASME A17.7/CSA B44.7;
- (9) Tiering or piling machines used to move materials to and from storage located and operating entirely within one (1) story;
- (10) Equipment for feeding or positioning materials at machine tools, printing presses, etc.;
- (11) Skip or furnace hoists;
- (12) Wharf ramps;
- (13) Railroad car lifts or dumpers; and
- (14) Line jacks, false cars, shafters, moving platforms and similar equipment used for installing an elevator by a contractor licensed in this state.

(d)

(1) The purpose of this chapter is to provide for the safety of installers, maintainers, operators and users and to promote public safety awareness. The use of unsafe and defective lifting devices imposes a substantial probability of serious and preventable injury to employees and the public exposed to unsafe conditions. The prevention of these injuries and protection of employees and the

public from unsafe conditions is in the best interest of the people of this state.

Elevator personnel performing work covered by this code shall by documented training or experience or both, be familiar with the operation and safety functions of the components and equipment. Training and experience shall include, but not be limited to, recognizing the safety hazards and performing the procedures to which they are assigned in conformance with the requirements of the code.

This chapter shall establish the minimum standards for elevator personnel.

(2) This chapter is not intended to prevent the use of systems, methods, or devices of equivalent or superior quality, strength, fire resistance, code effectiveness, durability, and safety to those required by the code, provided that there is technical documentation to demonstrate the equivalency of the system, method, or device, as prescribed in ASME A17.1/CSA B44, ASME A17.7/CSS B44.7, ASME A18.1 or ASCE 21.

(e)

(1) No person shall erect, construct, alter, replace, maintain, remove or dismantle any conveyance contained within buildings or structures in the jurisdiction of this state unless an elevator mechanic license has been issued as described in this chapter and is working under the direct supervision of a sole proprietor, firm or corporation who is an elevator contractor pursuant to this chapter. No person shall wire any conveyance from the mainline feeder terminals on the controller in the jurisdiction of this state unless an elevator mechanic license has been issued as described in this chapter and is working under the direct supervision of a sole proprietor, firm or corporation who is an elevator contractor pursuant to this chapter. No other license shall be required for this work. A licensed elevator contractor is not required for removing or

dismantling conveyances that are destroyed as a result of a complete demolition of a secured building or structure or where the hoistway or wellway is demolished back to the basic support structure whereby no access is permitted therein to endanger the safety and welfare of a person.

(2) No person shall inspect any conveyance within buildings or structures, including but not limited to private residences, unless an inspector's license has been issued as described in this chapter.

(f)

(1) Any person, wishing to engage in installing, altering, repairing or servicing elevator, dumbwaiter, escalator, moving sidewalks installation, alternation, service, replacement or maintenance within the jurisdiction shall make application for a license with the board on a form provided by the board.

(2) The qualifications of elevator mechanic shall include the following:

(A) No license shall be granted to any person who has not demonstrated their qualifications and abilities; and

(B) Applicants for a mechanic license must demonstrate one (1) of the following qualifications:

(i) An acceptable combination of documented experience and education credits: not less than three (3) years work experience in the elevator industry, in construction, maintenance or service/repair or any combination thereof, as verified by current and previous employers licensed to do business in this state; and satisfactory completion of a written examination administered by the board on the most recent referenced codes and standards;

(ii) Any person who furnishes the commissioner with acceptable proof that they have worked an elevator constructor, maintenance, or repair person shall upon making application for a license and paying the license fee shall be entitled to receive a license without an examination. They shall have worked without direct and immediate supervision for an elevator contractor licensed to do business in this state. This employment shall not be less than three (3) years immediately prior to the effective date of this act. The person must make application within one (1) year of the effective date of this act;

(iii) Certificates of completion and successfully passing the mechanic examination of a nationally recognized training program for the elevator industry such as the National Elevator Industry Educational Program or its equivalent;

(iv) Certificates of completion of an apprenticeship program for elevator mechanic, having standards substantially equal to those of this chapter, and registered with the Bureau of Apprenticeship and Training, U.S. Department of Labor or the TN apprenticeship council; or

(v) A license shall be issued to an individual holding a valid license from a state having standards substantially equal to those of this chapter, upon application and without examination.

(3) The qualifications of elevator contractor shall include the following:

(A) No license shall be granted to any sole proprietor, firm or corporation that has not demonstrated the requisite qualifications and abilities; and

(B) Duly authorized applicants for an elevator contractor's license must demonstrate the following qualifications: shall have in their employ licensed elevator mechanics who perform the work described in subsection (e) and have proof of compliance with the insurance requirements set forth in subsection (l).

(4) A license may be issued to a sole proprietor, firm or corporation holding a valid license from a state having standards substantially equal to those of this chapter, upon application.

(g)

(1) Upon approval of an application by the administrator, the board may issue a license, which shall be renewable biennially. The fee for such license for any renewal shall be set by the board.

(2) When ever an emergency exists in the state due to disaster, act of God or work stoppage and the number of persons in the state holding licenses granted by the board is insufficient to cope with the emergency, elevator contractors shall respond as necessary to assure the safety of the public. Any person certified by a licensed elevator contractor to have an acceptable combination of documented experience and education to perform elevator work without direct and immediate supervision shall seek an emergency elevator mechanic license from the board within five (5) business days after commencing work requiring a license. The administrator shall issue emergency elevator mechanic licenses. The elevator contractor shall furnish proof of competency as

the administrator may require. Each such license shall recite that it is valid for a period of forty-five (45) days from the date thereof and for such particular elevators or geographical areas as the administrator may designate and otherwise shall entitle the licensee to the rights and privileges of an elevator mechanic license issued in this chapter. The administrator shall renew an emergency elevator mechanic license during the existence of an emergency. No fee shall be charged for any emergency elevator mechanic license or renewal thereof.

(3) An elevator contractor shall notify the administrator when there are no licensed personnel available to perform elevator work. The elevator contractor may request that the administrator issue temporary elevator mechanic licenses to persons certified by the licensed elevator contractor to have an acceptable combination of documented experience and education to perform elevator work without direct and immediate supervision. Any person certified by an elevator contractor to have an acceptable combination of documented experience and education to perform elevator work without direct and immediate supervision shall immediately seek a temporary elevator mechanic license from the board and shall pay such fee, as the board shall determine. Each such license shall recite that it is valid for the term specified in subdivision (g)(1) and while employed by the licensed elevator contractor that certified the individual as qualified. It shall be renewable as long as the shortage of license holders shall continue.

(4) The renewal of all licenses granted under this section shall be conditioned upon the submission of a certificate of completion of a course designed to ensure the continuing education of licensees on new and existing

provisions of the regulations of the board. Such course shall consist of not less than eight (8) hours of instruction that shall be attended and completed within one year immediately preceding any such license renewal.

(5) The courses shall be taught by instructors through continuing education providers that may include, but shall not be limited to, association seminars and labor training programs. The board shall approve the continuing education providers. All instructors shall be approved by the board and exempt from the requirements of the preceding paragraph with regard to their application for license renewal provided that such applicant was qualified as an instructor at any time during the one year immediately preceding the scheduled date for such renewal.

(6) A licensee who is unable to complete the continuing education course required under this section prior to the expiration of their license due to a temporary disability may apply for a waiver from the board. This will be on a form provided by the board which shall be signed under the pains and penalties of perjury and accompanied by a certified statement from a competent physician attesting to such temporary disability. Upon the termination of such temporary disability, such licensee shall submit to the board a certified statement from the same physician, if practicable, attesting to the termination of such temporary disability. At which time a waiver sticker, valid for ninety (90) days, shall be Issued to such licensee and affixed to his license.

(7) Approved training providers shall keep uniform records, for a period of ten (10) years, of attendance of licensees following a format approved by the board and such records shall be available for inspection by the board at its request. Approved training providers shall be responsible for the security of all

attendance records and certificates of completion; provided, however, that falsifying or knowingly allowing another to falsify such attendance records or certificates of completion shall constitute grounds for suspension or revocation of the approval required under this section.

(h) No license shall be suspended, revoked or subject to civil penalty until after a hearing before the administrator upon notice to the licensee of at least ten (10) days at the last known address appearing on the license, served personally or by registered mail. The notice shall state the date, hour, and place of hearing and set forth a statement of facts constituting the grounds for the charges against the licensee. The administrator shall suspend or revoke the license or dismiss the proceeding.

(i) Within six (6) months after the date of the appointment of the board, the owner or lessee of every existing conveyance shall register with the board each such elevator, dumbwaiter, platform lift, and escalator or device, owned and operated by them, giving the type, rated load and speed, name of manufacturer, its location and the purpose for which it is used and such additional information as the board may require. Elevators, dumbwaiters, platform lifts escalators and moving walks or other conveyances which construction has begun subsequent to the date of the creation of the board shall be registered at the time they are completed and placed in service.

(j) It shall be the responsibility of individuals, firms or corporations licensed as described above to ensure that installation or service and maintenance of elevators and devices described in this act, is performed in compliance with the state fire prevention and building code, and with generally accepted standards referenced in that code.

(k) No conveyance, covered by this chapter shall be erected, constructed, installed or altered within buildings or structures within the jurisdiction unless a permit has been obtained from the board before the work is commenced. Where any material

alteration is made, the device shall conform to applicable requirements in ASME A17.1/CSA B44, ASME A17.7/CSA B44.7, ASME A18.1 or ASCE 21 for the alteration. No permit required under this subsection (k) shall be issued except to a sole proprietor, firm, or corporation holding a current elevator contractor's license, duly issued pursuant to this chapter. A copy of such permit shall be kept at the construction site at all times while the work is in progress.

(l)

(1) Elevator contractors shall submit to the board, an insurance policy or certified copy thereof, issued by an insurance company authorized to do business in the state, to provide general liability coverage of at least one million dollars (\$1,000,000) for injury or death of any number of persons in any one (1) occurrence, with the coverage of at least five hundred thousand dollars (\$500,000) for property damage in any one (1) occurrence and the statutory workers compensation insurance coverage.

(2) Such policies, or duly certified copies thereof, or an appropriate certificate of insurance, approved as to form by the commissioner of commerce and insurance and as to sufficiency by the comptroller of the treasury, shall be delivered to the board before or at the time of the issuance of a license. In the event of any material alteration or cancellation of any policy at least ten (10) days notice thereof shall be given to the board.

(m) This chapter shall not be construed to relieve or lessen the responsibility or liability of any person, firm or corporation owning, operating, controlling, maintaining, erecting, constructing, installing, altering, inspecting, testing or repairing any elevator or other related mechanisms covered by this chapter for damages to person or property caused by any defect therein, nor does the state assume any such liability or

responsibility therefore or any liability to any person for whatever reason whatsoever by the adoption of this chapter or any acts or omissions arising under this chapter.

(n) All tests shall be performed by a licensed elevator mechanic.

(o) Whenever a provision in this chapter is found to be inconsistent with other applicable state law, code or regulation, the state law shall prevail. This chapter, unless specifically stated otherwise, is not intended to establish more stringent or more restrictive standards than standards set forth in other applicable state law.

(p) All other building transportation terms used in this section and not defined in § 68-121-101 are defined in the latest edition of ASME A 17.1/CSA B44, ASME A17.7/CSA B44.7 and ASME A18.1.

SECTION 3. Tennessee Code Annotated, Section 68-121-103, is amended by adding the following as a new subsection (f):

(f) The board shall adopt the latest editions of said standards authorized by this act within six (6) months of their effective date. Any modifications to said standards, that the board deems necessary, shall be justified in writing by the board.

SECTION 4. Tennessee Code Annotated, Section 68-121-110(a), is amended by deleting the language "No person" at the beginning of the first sentence and by substituting instead the language "Subject to § 68-121-113, no person".

SECTION 5. This act shall take effect July 1, 2010, the public welfare requiring it.